

## REMARKS

Claims 1-19 are pending in the present application. Claims 1-4, 7-9 and 12 have been amended herein. Applicant also submits herewith another full copy of the application as filed. Entry of this Amendment and Remarks and further examination of this application are respectfully requested.

The Applicant respectfully submits that the entry of these amendments will place the claims in condition for allowance. Claims 1-4, 7 and 8 have been amended to be correct in form. Independent Claims 1, 9, and 12 have been amended to clarify that each broadcast receiver can receive a purchase request from a user, which begins either an instantaneous or delayed process that will result in purchase of the requested good or service. Support for the amendment is found throughout the Specification, for instance, in Paragraph Nos. 18 and 19, and in Fig. 3 at decision 70. Applicants submit no new matter has been added by the present amendments.

### Interview Summary

The applicant acknowledges with thanks the telephonic interview granted by the Examiner with undersigned counsel on January 5, 2005. In the interview, several matters were discussed including the objection to specification, rejection of the claims under 35 U.S.C. §112, ¶2, and rejection of the claims in view of *Kesling, et al.* (US Patent Application Publication No. 2002/0132575A1). An agreement as to the ultimate patentability of the claims was not reached, but other agreements were reached regarding several of the objections and rejections as noted herein.

### Objection to the Specification

Regarding the objection to the specification, the Examiner noted several errors in the specification that Applicant was unable to locate. During the interview, the Examiner stated that the errors may have occurred when the application was initially scanned in and optical character recognition (OCR) was done to create the electronic copy for the Examiner. The Examiner requested that Applicant resubmit a copy of the full application in response to the Office Action, and if upon review of same, no errors appear in the specification as submitted, the Examiner will withdraw the objection.

Applicant submits herewith a copy of the full application for utility patent as initially filed in this case, and as no errors appear therein in the manner described in the Office Action, requests withdrawal of this objection.

### Rejections under 35 U.S.C. §112, ¶2

The Office Action rejected Claims 2 and 9-11 under 35 U.S.C. §112, ¶2, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. However, the Office Action described the rejection as also being for Claims 1, 3, 4, 7 and 8. In particular regard to Claims 1-4, 7 and 8, the Office Action requested correction of the claims to state that certain elements apply to "each" broadcast receiver, as opposed to "the" broadcast receiver as written. It was also noted that Claim 2 has the term "receiver" erroneously omitted after "broadcast." Applicants have amended these rejected claims accordingly and submit that these grounds of objection have been removed.

In regard to Claim 9, the Office Action rejected the claim stating that the term therein of "another computer device" was a non sequitur because no other computer

device was previously set forth in the claim. During the interview of January 5, 2005, this rejection was discussed and the Examiner stated that Claim 9 was correct in form as initially filed, and that this ground of rejection would be withdrawn. In view of the withdrawal of this ground, Applicant has not amended this element in Claim 9, and accordingly, dependent Claims 10 and 11 are likewise submitted to be in proper form.

Rejections under 35 U.S.C. §102(e)

The Office Action rejected Claims 1-13 and 15-19 under 35 U.S.C. §102(e) as being unpatentable over *Kesling, et al.* The Office Action stated that *Kesling, et al.*, discloses a method containing all elements of rejected claims 1, 3 and 5-8 respectively, and does not state specifically how *Kesling, et al.*, applies to rejected Claims 2, 4, 9-13 and 15-19. Applicant traverses these rejections and hereby requests reconsideration thereof.

Firstly, in rejecting claims for want of novelty, the pertinence of each reference must be clearly explained and each rejected claim specified. 37 C.F.R. §1.104(c). Accordingly, because there are no specific reasons articulated in the Office Action for the rejection of Claims 2, 4, 9-13 and 15-19 in view of *Kesling, et al.*, this rejection cannot stand and must be withdrawn.

Secondly, regarding the specific rejection of Claims 1, 3, and 5-8, in view of *Kesling, et al.*, Applicant has amended independent claims 1, 9, and 12 to clarify that each broadcast receiver "receives a purchase request" from a person desiring to purchase a good or service advertised in the broadcast media. In essence, once the purchase process is started at the broadcast receiver, it will be completed either instantaneously, such as through a direct communication to the server, (See Paragraph

No. 19) or through a delayed process insofar as purchase data is transmitted once communication with the server can be established (See Paragraph No. 20). While one or more steps can comprise the purchase process at the broadcast receiver, the purchase process is fully started at the broadcast receiver and will be fulfilled provided that the verification by the server can be had, i.e. account information is correct, media is available for purchase, etc.

Conversely, *Kesling, et al.*, involves a satellite radio broadcast system (See Abstract) with a user interface 1000 that “allows the receiver to receive input from a listener/user indicating an interest in a given selection.” Page 3, Paragraph No. 41. The pressing of the button selects a “program identifier” and the user receives a “media link”, which can be a physical or wireless link to more information about the program. Page 4, Paragraph No. 41 and Page 5, Paragraph Nos. 64, 65. In fact, “if the program identifier identifies a particular song and artist the [linked] web site preferably provides information regarding how the listener can obtain or purchase a copy of a compact disc (CD) on which the music selection(s) can be found [ ].” Page 4, Paragraph No. 51. Therefore, the receiver of *Kesling, et al.*, discloses at most an “informational request,” and not a “purchase request” as claimed the present invention.

In order to reject the claims under 35 U.S.C. §102(e), *Kesling, et al.*, must disclose all elements thereof. MPEP §2141. Because *Kesling, et al.*, does not at least disclose the element of the “purchase request” in amended independent Claims 1, 9 and 12, and as in Claims 2-8, 10-13, and 15-19 as dependent thereupon, this ground of rejection cannot stand and Applicant hereby requests allowance of Claims 1-13 and 15-19 as amended.

Rejection under 35 U.S.C. §103(a)

The Office Action rejected Claim 14 under 35 U.S.C §103(a) as being unpatentable over *Kesling, et al.*, in view of an Official Notice regarding secure communication channels. It was stated that while *Kesling, et al.*, does not teach a secure communication channel, it is notoriously well known to employ secure communication channels when endeavoring to conduct transactions of the type disclosed by *Kesling, et al.* Applicant respectfully traverses this rejection in so far as it pertains to the claim as amended, and traverses the Official Notice and characterization of *Kesling, et al.*

Claim 14 is dependent from independent Claim 12, which has been amended to clarify the step of the broadcast receiver receiving a purchase request, and Claim 14 accordingly includes this element. As argued above, *Kesling, et al.*, does not have the element of a purchase request originating at the broadcast receiver, and Applicant submits that the suggested modification of *Kesling, et al.*, with an Official Notice of secure communication protocol does not disclose this element. In order to render obvious the presently claimed invention, the suggested combination must disclose all elements of the rejected claims. MPEP §2143. As the suggested combination fails to disclose at least the element of the broadcast receiver receiving a purchase request, the Applicant respectfully submits that Claim 14, as dependent on amended independent Claim 12, cannot be rendered obvious by the suggested combination and allowance thereof is respectfully requested.

### Prior Art Made of Record

Applicant has reviewed the prior art made of record in this application and considered pertinent to Applicant's disclosure but not relied upon to reject any claim. Applicant agrees that the cited prior art is pertinent to Applicant's disclosure but does not anticipate or render obvious, either singly or in combination, any currently pending or previously presented claim of the present application.

### **CONCLUSION**

In view of the foregoing amendments and remarks, the Applicant respectfully submits that the application is in condition for allowance and notification to that effect is earnestly solicited. The Examiner is courteously invited to contact the Applicant's attorneys at (404) 815-3400 should it be necessary to facilitate the allowance of this application.

No additional fees are believed due. However, the Commissioner is hereby authorized to charge any additional fees which may be required, including any necessary extensions of time, which are hereby requested, to Deposit Account No. 03-0683.

Respectfully submitted,

Stephen A. Ewald  
By his Representatives,



Lance D. Reich  
Reg. No. 42,097

Date 4 February 2005

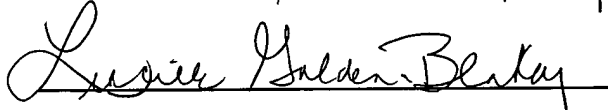
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CERTIFICATE UNDER 37 CFR 1.8

The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria VA 22313-1450, on this 4<sup>th</sup> day of February, 2005.

  
Lucille Golden-Blakey